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Status of the International Convention for the Protection of All Persons from Enforced Disappearances

Report of the Secretary-General

Summary

In its resolution 65/209 on the International Convention for the Protection of All Persons from Enforced Disappearance, the General Assembly welcomed the entry into force of the Convention on 23 December 2010 and called upon States that had not yet done so to consider signing and ratifying or acceding to the Convention as a matter of priority and to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances. In the same resolution, the Assembly decided to declare 30 August the International Day of the Victims of Enforced Disappearances and called upon Member States, the United Nations system and other international and regional organizations, as well as civil society, to observe that day.

The General Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to continue their intensive efforts to assist States in becoming parties to the Convention, with a view to achieving universal adherence and requested United Nations agencies and organizations, and invited intergovernmental and non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances, to continue making efforts to disseminate information on the Convention, promote understanding of it, prepare for its entry into force and assist States parties in implementing their obligations under that instrument. The Assembly further requested the Secretary-General to submit to it, at its sixty-sixth session, a report on the status of the Convention and the implementation of resolution 65/209. The present report is submitted in accordance with that request.

* A/66/150.

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I. Introduction

1. In its resolution 65/209, entitled "International Convention for the Protection of All Persons from Enforced Disappearance", the General Assembly underlined its deep concern regarding the increase in enforced or involuntary disappearances in various regions of the world, including arrest, detention and abduction, when these were part of or amount to enforced disappearances, and by the growing number of reports concerning harassment, ill treatment and intimidation of witnesses of disappearances or relatives of persons who had disappeared.

2. In the same resolution, the General Assembly welcomed the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance[1] and the fact that 87 States had signed the Convention and 21 had ratified or acceded to it, thereby enabling it to enter into force on 23 December 2010; and called upon States that had not yet done so to consider signing and ratifying or acceding to the Convention as a matter of priority, as well as to consider the option provided for in articles 31 and 32 of the Convention regarding the Committee on Enforced Disappearances.

3. Also in resolution 65/209, the General Assembly decided to declare 30 August the International Day of the Victims of Enforced Disappearances, calling for observance of this Day by Member States, the United Nations system and other international and regional organizations, as well as civil society.

4. In the same resolution, the General Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to continue their intensive efforts to assist States in becoming parties to the Convention, with a view to achieving universal adherence.

5. The General Assembly also requested United Nations agencies and organizations, and invited intergovernmental and non-governmental organizations and the Working Group on Enforced or Involuntary Disappearances, to continue making efforts to disseminate information on the Convention, to promote understanding of it, to prepare for its entry into force and to assist States parties in implementing their obligations under that instrument.

6. The General Assembly welcomed the report of the Secretary-General (A/65/257) and requested him to submit, at its sixty-sixth session, a report on the status of the Convention and the implementation of resolution 65/209.

II. Status of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and its entry into force

7. On 29 June 2006, the Human Rights Council, in its resolution 1/1,[2] adopted the International Convention for the Protection of All Persons from Enforced Disappearance, as annexed to that resolution, and recommended that the General Assembly adopt the Convention.

[1] Resolution 61/177, annex.

[2] See A/61/53, part one, chap. II.A.

8. By its resolution 61/177, the General Assembly adopted and opened for signature, ratification and accession the International Convention for the Protection of All Persons from Enforced Disappearance. Following the deposit of the twentieth instrument of ratification or accession on 23 November 2010, the Convention entered into force on 23 December 2010 in accordance with article 39, paragraph 1, of the Convention. As at 7 July 2011, there were 88 signatories to the Convention, while 29 States were party to it. Ten States have also recognized the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by the State party of provisions of the Convention (article 31); and 11 States have recognized the competence of the Committee to receive and consider communications in which a State party claims that another State party is not fulfilling its obligations under the Convention (article 32).

III. First meeting of States parties to the Convention

A. Election of the members of the Committee on Enforced Disappearances

9. In accordance with article 26, paragraph 3, of the Convention the first meeting of States parties was convened by the Secretary-General on 31 May 2011 at United Nations Headquarters in New York to hold the initial election of 10 members of the Committee on Enforced Disappearances. The meeting elected the following members: Mr. Mohammed Al-Obaidi (Iraq), Mr. Mamadou Badio Camara (Senegal), Mr. Emmanuel Decaux (France), Mr. Alvaro Garcé García y Santos (Uruguay), Mr. Luciano Hazan (Argentina), Mr. Rainer Huhle (Germany), Ms. Suela Janina (Albania), Mr. Juan José López Ortega (Spain), Mr. Enoch Mulembe (Zambia) and Mr. Kimio Yakushiji (Japan). The members assumed office on 1 July 2011. The first session of the Committee will be held from 8 to 11 November 2011 in Geneva.

B. Panel discussion on the International Convention on Enforced Disappearances: ending impunity and preventing new victims

10. A panel discussion sponsored by Argentina, France and the Office of the United Nations High Commissioner for Human Rights, entitled "The International Convention on Enforced Disappearances: ending impunity and preventing new victims", was conducted under agenda item 7. The aim of the panel discussion was to raise the visibility and promote the ratification of the Convention. In the course of the discussions, the Convention was recognized as a powerful instrument against impunity and States were encouraged to promote its use for victims and their families seeking justice, truth and reparations.

IV. Activities of the Secretary-General and the Office of the United Nations High Commissioner for Human Rights

11. Since the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance, on a number of occasions the Secretary-General has called upon States to ratify this instrument (see reports A/63/299,

A/63/337 and A/64/186). On 24 March 2011, on the occasion of the International Day for the Right to the Truth Concerning Gross Human Rights Violations and for the Dignity of Victims, the Secretary-General recalled that the right to the truth is explicitly provided for in the International Convention for the Protection of All Persons from Enforced Disappearance.[3]

12. The International Convention for the Protection of All Persons from Enforced Disappearance was highlighted during the treaty-related events organized by the United Nations in New York in 2007, 2008, 2009 and 2010, to bolster international law and promote treaty implementation.

13. In the report of the United Nations High Commissioner for Human Rights on the right to the truth (A/HRC/15/33), submitted to the Human Rights Council, the High Commissioner recalled that the International Convention for the Protection of All Persons from Enforced Disappearance makes clear reference to States' obligations to adopt specific measures to protect witnesses and victims.

14. Following the deposit of the twentieth instrument of ratification or accession to the Convention on 23 November 2010, the High Commissioner for Human Rights issued a statement, on 24 November 2010, welcoming the twentieth instrument of ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention's entry into force on 23 December 2010, in accordance with article 39 of the Convention. The High Commissioner stressed that "this groundbreaking Convention provides a solid international framework to put an end to impunity and pursue justice". The High Commissioner also urged all States "to follow the first 20 States parties' example by signing and ratifying this very important Convention as soon as possible".

15. In addition, in the most recent annual report on the activities of her office in Guatemala (A/HRC/16/20/Add.1 and Corr.1), the United Nations High Commissioner for Human Rights noted the support given to initiatives related to the International Convention for the Protection of All Persons from Enforced Disappearance; and in her report on the situation of human rights in Colombia, submitted to the Human Rights Council (A/HRC/16/22) through her country office in Colombia, the High Commissioner welcomed the approval by the Congress of Colombia of the ratification of the Convention and urged the Government to promptly complete the process.

16. On 5 November 2010, at the event commemorating the thirtieth anniversary of the Working Group on Enforced or Involuntary Disappearances, the Deputy United Nations High Commissioner for Human Rights recalled that there was one ratification needed to enable the Convention to come into force and appealed to all Member States that had not done so to ratify or accede to the Convention without delay and expressly recognize the competence of its monitoring mechanism, the Committee on Enforced Disappearance, to receive individual and inter-State communications. She also asserted that with the Convention's adoption by the General Assembly, the international community unanimously recognized the need to guarantee individuals the non-derogable right not to be subject to enforced disappearance and highlighted the link between the Working Group and the Convention.[4]

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[3] See http://www.un.org/en/events/righttotruthday/sgmessage.shtml.

[4] See http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10510&LangID=E.

17. Updated information on the status of the ratification of the Convention can be found on the websites of the United Nations and the Office of the United Nations High Commissioner for Human Rights.

V. Activities of the Working Group on Enforced or Involuntary Disappearances

18. Established by the Commission on Human Rights in its resolution 20 (XXXVI), the Working Group on Enforced or Involuntary Disappearances was the first United Nations human rights thematic mechanism established with a global mandate. Its mandate was extended on 24 March 2011 by the Human Rights Council in its resolution 16/16. Since its inception, the Working Group has transmitted more than 53,000 individual cases to Governments in more than 90 States. The number of cases under active consideration that have not yet been clarified, closed or discontinued stands at 42,633 and concerns 83 States. The Working Group has been able to clarify 1,814 cases over the past five years.

19. The Working Group uses every opportunity to promote the ratification of the Convention, including during visits undertaken to different States, and bilateral meetings held with its representatives. In 2011, the Working Group carried out missions to Timor-Leste and Mexico, during which it encouraged the Government of Timor-Leste to become party to the Convention and encouraged both Governments to accept the competence of the Committee, under articles 31 and 32 of the Convention, to receive individual and inter-State complaints. Similarly, in its report on follow-up to recommendations made following country visits to Guatemala in 2006 and Honduras in 2007 (A/HRC/16/48/Add.2), the Working Group called upon these two States parties to the Convention to accept the competence of the Committee under those articles.

20. On 30 August 2010, on the occasion of the International Day of the Disappeared, and on 12 November 2010, on the occasion of the conclusion of its ninety-second session, the Working Group issued public statements in which it urged States that had not signed and/or ratified the Convention, to do so as soon as possible. It also called upon States to accept the competence of the Committee on Enforced Disappearances, under articles 31 and 32 of the Convention, to receive and consider individual and inter-State communications.

21. On 5 November 2010, on the occasion of the commemoration of the thirtieth anniversary of the Working Group, its Chair-Rapporteur, in his opening remarks, called upon States that had not yet ratified the Convention to do so and to accept the competence of the Committee on Enforced Disappearances under articles 31 and 32 of the Convention.

22. Following the deposit, on 23 November 2010, of the twentieth instrument of ratification of the Convention, the Working Group, on 25 November 2010, issued a statement welcoming the twentieth ratification. In this statement, the Working Group recalled that it had actively supported the coming into force of the Convention and the establishment of the Committee, which, it stressed, would complement and strengthen the work of the Working Group and that of civil society, including relatives of disappeared people, towards combating enforced disappearance. The Working Group reiterated its call upon all Governments that had

not signed and/or ratified the Convention to do so as soon as possible and to accept the competence of the Committee on Enforced Disappearances, under articles 31 and 32 of the Convention, to receive and consider individual and inter-State communications.

23. On 23 December 2010, the Working Group issued a statement welcoming the entry into force of the Convention. The Working Group emphasized that the Convention breaks new ground in the fight against the scourge of enforced disappearances, and recalled that the Convention recognizes the right of all persons affected by enforced disappearance to know the truth about the circumstances of this crime, the progress and results of the investigation, and the fate of the disappeared person. In addition, the Working Group highlighted the fact that the States that ratify the Convention commit themselves to conducting investigations in order to locate the disappeared person, to prosecute those responsible and to ensure reparations for survivors and their families. Finally, the Working Group reiterated its call upon all Governments that have not ratified the Convention to do so as soon as possible, and to accept, when ratifying it, the competence of the Committee on Enforced Disappearances to receive and consider individual and inter-State communications of the Convention.

24. In its 2010 annual report (A/HRC/16/48), the Working Group reiterated its call upon States that had not signed and/or ratified the Convention to do so as soon as possible and, when ratifying the Convention, to accept the competence of the Committee to receive individual cases, under article 31 of the Convention, and inter-State complaints, under article 32.

25. In its report concerning best practices on enforced disappearances in domestic criminal legislation (A/HRC/16/48/Add.3 and Corr.1), the Working Group made reference to several articles of the Convention. In addition, in its conclusions, the Working Group highlighted the ratification of the Convention as one of those best practices that should be followed by States.

26. On 7 March 2011, during the interactive dialogue with the Human Rights Council, the Chair-Rapporteur of the Working Group welcomed the entry into force of the Convention and noted that, out of 23 States that had ratified the Convention, only 7 had accepted the competence of the Committee, under article 31 for individual complaints, and the inter-State complaint mechanism, under article 32, and 1 had accepted the competence of the Committee under article 32 only. The Chair-Rapporteur invited all States to ratify the Convention and to accept the competence of its Committee under articles 31 and 32.

27. On 31 May 2011, the Working Group issued a statement in which it took note of the first meeting of the States parties to the Convention. It noted with appreciation that 26 States had ratified the Convention and 88 States had signed it, and invited all States that had yet to ratify the Convention to do so and to accept the competence of the Committee under articles 31 and 32. The Working Group highlighted the fact that the entry into force of the Convention was largely due to the efforts, over at least 30 years, of the families of disappeared persons to bring to the attention of the international community the extent of the heinous crime of enforced disappearance. It recalled that, during the negotiations conducted to draft the Convention, the relatives of disappeared persons had had to fight for the establishment of the Committee which was considered by some as conducing to an unnecessary duplication of effort; and that, in their demand, the families had been

strongly supported by the Working Group which had always stressed the fact that the two mechanisms would be complementary. It stated that this collaboration between the two mechanisms would take into account the fact that, while the competence of the Committee will be limited to those States that have ratified the Convention, the Working Group will be able to consider the situation in all countries. While the Committee will be competent to deal with those cases of enforced disappearances that occurred after the entry into force of the Convention, the Working Group may examine all situations regardless of when they occurred. Finally, the Working Group stated that it looked forward to a very productive relationship with the Committee in the fight to prevent and eradicate enforced disappearances around the world.

VI. Activities of United Nations agencies and organizations

28. A number of United Nations agencies and organizations have made concerted efforts at the national, regional and global levels to disseminate information on the Convention, promote the understanding of it, prepare for its entry into force, and assist States parties in implementing their obligations under this instrument.

29. On 19 November 2010, the Third Committee, at its 49th meeting, recommended to the General Assembly the adoption of the draft resolution entitled "International Convention for the Protection of All Persons from Enforced Disappearance", in which the Assembly would, inter alia, approve 30 August as the International Day of the Victims of Enforced Disappearances.[5] As recalled by a few representatives of State parties, this date had been chosen by civil society and the families of victims, and was already observed by many countries around the world. On 21 December 2010, during its 71st plenary meeting, the General Assembly adopted resolution 65/209, in which, inter alia, it declared 30 August the International Day of the Victims of Enforced Disappearances.[6]

VII. Conclusion

30. **With the establishment of the Committee on Enforced Disappearances, which will meet for the first time in November 2011, a milestone has been reached in respect of the protection of persons from enforced disappearances and the right of those affected, including family members of the disappeared, to know the truth. The Secretary-General and the United Nations High Commissioner for Human Rights, as well as the Working Group on Enforced and Involuntary Disappearances, are continuing their efforts to promote the ratification of the Convention.**

[5] See GA/SHC/3999. Available from http://www.un.org/News/Press/docs/2010/gashc3999.doc.htm.

[6] See GA/11041. Available from http://www.un.org/News/Press/docs/2010/ga11041.doc.htm.